

By: White (29th)

To: Finance

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 2138

1 AN ACT TO PROHIBIT THE POSSESSION OF AN OPEN ALCOHOLIC  
2 BEVERAGE, LIGHT WINE OR BEER CONTAINER OR THE CONSUMPTION OF  
3 ALCOHOLIC BEVERAGES, LIGHT WINE OR BEER, WITHIN THE PASSENGER  
4 COMPARTMENT OF A MOTOR VEHICLE; TO PRESCRIBE PENALTIES FOR  
5 VIOLATIONS OF THIS ACT; AND FOR RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 SECTION 1. (1) The following words and phrases shall have  
8 the meaning ascribed herein:

9 (a) "Open container" means any glass, metal, plastic or  
10 other container which contains any alcoholic beverage as defined  
11 in Section 67-1-5, Mississippi Code of 1972, or light wine or beer  
12 as defined in Section 67-3-1, Mississippi Code of 1972, and which  
13 has been opened or punctured or cut in such a way that the  
14 contents may be consumed by any person or has been constructed in  
15 such a way that the contents may be consumed by any person without  
16 opening or puncturing or cutting it.

17 (b) An open container shall be considered to be in the  
18 possession of the operator of a vehicle if the bottle, can or  
19 other container is in the passenger area of the motor vehicle.

20 (c) "Motor vehicle" means a vehicle driven or drawn by  
21 mechanical power and manufactured primarily for use on public  
22 highways, but does not include a vehicle operated solely on a rail  
23 or rails.

24 (d) "Passenger area" means the area designed to seat  
25 the driver and passengers while the motor vehicle is in operation  
26 and any area that is readily accessible to the driver or a  
27 passenger while in their seated positions, including the glove

28 compartment.

29 (e) "Public highway or right-of-way" means the entire  
30 width between the right-of-way boundary lines of every way  
31 publicly maintained when any part thereof is open to the use of  
32 the public for purposes of vehicular travel.

33 (2) It shall be unlawful for a person to possess an open  
34 container or to consume an alcoholic beverage within the passenger  
35 area of a motor vehicle while operating or occupying the motor  
36 vehicle on any public road, highway or highway right-of-way in  
37 this state.

38 (3) Nothing in this act shall prohibit the possession of an  
39 open container:

40 (a) By a passenger in the living quarters of a parked  
41 and nonmoving house coach or house trailer; or

42 (b) By a passenger, other than the driver, who has  
43 hired the vehicle that is owned, operated and driven by a person  
44 presently engaged in the business of transporting passengers for  
45 compensation; or

46 (c) When the open container is located behind the last  
47 upright seat of a motor vehicle not equipped with a trunk; or

48 (d) When the open container is located in an area not  
49 normally occupied by the driver or passengers in a motor vehicle  
50 not equipped with a trunk; or

51 (e) When the open container is located in a locked  
52 glove compartment.

53 (4) Any person who violates the provisions of this act shall  
54 be guilty of a misdemeanor and, upon conviction, shall be fined  
55 not more than One Hundred Dollars (\$100.00).

56 (5) Any local ordinance which imposes more stringent  
57 restrictions on the possession of open containers in vehicles than  
58 those imposed by this section shall be preempted by this section.

59 SECTION 2. The provisions of subsection (1) of this section  
60 shall not be construed as exempting any person or vehicle from the  
61 provisions of the Highway Safety Patrol and Driver's License Law  
62 of 1938, the Mississippi Implied Consent Law or the provisions of  
63 any other laws of this state.

64 SECTION 3. This act shall take effect and be in force from

65 and after July 1, 2000.